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C O N F I D E N T I A L SECTION 01 OF 03 BEIJING 002009

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STATE PASS USTR FOR STRATFORD, READE, WINTER, MCCARTIN,
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TAGS: [ECON](#) [ETRD](#) [EFIN](#) [KIPR](#) [PREL](#) [CH](#)

SUBJECT: AUSTR STRATFORD DISCUSSES XINHUA REGULATIONS WITH
XINHUA NEWS VP LU WEI

REF: A. BEIJING 1158

[1](#)B. BEIJING 622

Classified By: Deputy Chief of Mission David S. Sedney.
Reasons 1.4 (b/d).

Summary

[1](#)1. (C) On March 14, AUSTR for China and Mongolia Affairs Tim Stratford raised with Xinhua News Vice President Lu Wei WTO concerns over the September 2006 regulations requiring foreign financial information providers to sign a service contract with Xinhua's wholly-owned distributor. AUSTR Stratford proposed that Xinhua and USTR discuss this issue under the auspices of the Strategic Economic Dialogue (SED). VP Lu said that he would "consider" AUSTR Stratford's proposal to allow foreign information providers to renew their licenses (which expire the end of March) prior to signing service contracts while USTR and Xinhua discuss this issue. However, VP Lu emphasized that the new regulations will not be abolished. AUSTR Stratford said he will send a White Paper to Xinhua News within 30 days to highlight WTO concerns regarding the regulations. End Summary.

AUSTR Stratford Raises Concerns over the Regulations

[1](#)2. (C) On March 14, AUSTR Stratford, accompanied by emboffs, met with Xinhua News Vice President Lu Wei and raised WTO concerns over the September 2006 regulations requiring foreign financial information providers to sign a service contract with Xinhua's wholly-owned distributor. AUSTR Stratford proposed that USTR and Xinhua discuss this issue under the auspices of the SED. (Note: Ministry of Finance officials, in their meeting a week earlier with AUSTR Stratford, had said that discussions of this issue could take place under the SED but would be held separately from the financial and non-financial services discussions. USTR would like a dialogue with both Xinhua and the State Council Legislative Affairs Office (SCLAO) to discuss the regulation, as well as the role of regulators and "best practices." End Note.)

[1](#)3. (C) AUSTR Stratford noted that foreign companies that

provide financial information are very concerned about their license renewals, which are conditioned on signing a service contract with China Economic Information Service (CEIS), a Xinhua-designated company. Given the continuing uncertainty over the role and function of the Xinhua-designated agent CEIS, AUSTR Stratford requested that the licenses be renewed without being linked to the contract signings and that the conditions that existed before the September 2006 regulations prevail during discussions between USTR and Xinhua over the regulations. He warned that if the businesses cannot obtain renewals without signing the contracts, then USTR will need to consider other options, including the possibility of initiating WTO proceedings very quickly since the licenses will expire by the end of March. The WTO dispute settlements process, he added, allows trade partners to compartmentalize problems and avoid negatively impacting other aspects of their economic relations. AUSTR Stratford said that Xinhua and USTR have two choices on how to proceed: (1) to have a dialogue under the SED and allow the businesses to continue under the old business practices while the dialogue continues, or (2) possibly proceed with a WTO filing.

VP Lu Wei: Sovereignty is Paramount

14. (C) Xinhua VP Lu said that any company that wants to conduct business in China must obey Chinese laws. He noted that he told Amcham President Mike Barbalas in a meeting a week earlier that Amcham member companies must abide by Chinese regulations. VP Lu said that repealing the September 2006 regulations was out of the question. This is an issue of Chinese sovereignty.

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15. (C) VP Lu claimed that the foreign companies are asked to sign a service contract, not a distribution contract. CEIS provides a service, either finding clients on behalf of companies and/or registering these clients on their behalf. Since the September 2006 regulations were issued, VP Lu claimed, all foreign companies have achieved better profits and have obtained protection of their proprietary information. He claimed that he has not heard of any foreign businesses suffering as a result of the new regulations, and said that USTR has no reason to file a WTO suit.

16. (C) According to VP Lu, Reuters and Dow Jones have disseminated news items that have violated Chinese law. Reuters had broadcast an item stating that - "Taiwan is an independent country," and Dow Jones in March issued an article supporting a call for Chinese citizens to overthrow their government and calling on the United States Government to fight against the Chinese dictatorship. Both companies have corrected their mistakes, he noted. As long as the disseminated content obeys Chinese law, China has no problem with foreign information providers.

AUSTR Stratford: WTO Does Not Threaten Sovereignty

17. (C) AUSTR Stratford stressed that the WTO will never order a country to change its laws, but it can authorize the country that has suffered from a prohibited trade practice to take retaliatory trade measures.

18. (C) AUSTR Stratford told VP Lu that one possible reason that Xinhua has not heard any complaints about the new regulation is that the companies are very hesitant to be critical of Xinhua, the regulator.

VP Lu: China Can Yield on Trade Issues, Not on Sovereignty

19. (C) VP Lu emphasized that he is willing to hold a dialogue with USTR, but that the Chinese government will not renounce

the regulations. VP Lu insisted that this is not a trade issue, and claimed that before issuing the regulations, Xinhua had conferred with WTO experts who said that the regulations do not violate WTO rules. VP Lu said, "China can yield on trade issues, but not on the issue of sovereignty." VP Lu rhetorically asked, "Do you think that the Chinese government would allow foreign businesses to provide information to overthrow the Chinese government?"

USTR: This is a Trade Issue, Not a Political One

¶10. (C) AUSTR Stratford responded that he is here to discuss a trade issue, not a political issue. As far as the WTO is concerned, the United States Government is not saying that the Chinese government cannot regulate content. According to the WTO, China can have content review, but this must not be an obstacle to trade. As China already has a system to review content, AUSTR Stratford said he does not understand why appointing an agent is necessary. Does this agent provide another service? It appears that this is a mechanism for a Xinhua subsidiary to obtain trade secrets, which is a concern of foreign companies. The key issue is how Xinhua as a competitor can regulate without getting trade secrets. He said that if both governments, through dialogue, could reach a clear understanding of the agent's function, and if this function does not violate WTO rules, there will be progress. But, if both sides cannot hold a dialogue, there will be trade problems.

VP Lu: The Agent is Necessary

¶11. (C) VP Lu said that the function of the agent has been spelled out in the regulations. According to Chinese law, all foreign firms must sign a service contract with the agent. He conceded that Xinhua should provide more specific explanations regarding the agent's role. The regulations standardize the market, and Xinhua is the regulator, because

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it can exercise this role conveniently. VP Lu claimed that Xinhua would never take advantage of its regulatory role for profit or to harm its competitors. The agent's role is to establish order in the market and ensure that the regulator is performing its job.

Implementing Regulations

¶12. (C) AUSTR Stratford suggested that discussion of implementing regulations be included in the SED and that the signing of the agreements be suspended pending clarification on the role of CEIS. Moreover, the implementing regulations should reflect the foreign companies' concerns. VP Lu responded that Xinhua insists that the foreign companies abide by Chinese law, but that it will listen to comments on how to facilitate a smooth implementation of the regulations.

AUSTR Stratford said that both governments should discuss the implementing regulations in terms of the WTO framework.

USTR White Paper

¶13. (C) VP Lu asked which clauses of the September 2006 regulations violated the WTO rules. AUSTR Stratford said that he would like to provide Xinhua News a White Paper within 30 days that highlights our WTO concerns. Both governments will then need time to discuss how to resolve this issue. VP Lu agreed with this approach and confirmed that it was not Xinhua's intent to implement regulations that are inconsistent with WTO rules, if such inconsistencies exist.

VP Lu: Will "Consider" a Waiver

¶14. (C) AUSTR Stratford asked whether the licenses could be renewed with a six-month waiver of the service contract signing because questions about the agency-company relationship need to be resolved before companies sign the service contract. VP Lu responded that he will consider the six-month waiver proposal, and provide a response when Xinhua has made a decision. As for the contract signing details, CEIS and the companies will need to discuss this among themselves. (Note: The Bloomberg representative told econoff on March 16 that they were informed on March 15 that their license was extended one month, until the end of April. End Note.) VP Lu reiterated these discussions shall not lead to the abolishment of the regulations.

¶15. (U) This cable was cleared by AUSTR Stratford.

RANDT